

House File 198

S-3185

1 Amend House File 198, as passed by the House, as
2 follows:

3 1. Page 1, before line 1 by inserting:
4 <DIVISION I
5 HOME AND COMMUNITY-BASED SERVICES PROVIDERS — TRAINING
6 COSTS>

7 2. Page 1, after line 10 by inserting:
8 <DIVISION II
9 DIRECT CARE PROFESSIONALS VOLUNTARY CERTIFICATION
10 Sec. ____ . NEW SECTION. 152F.1 Definitions.

11 As used in this chapter, unless the context
12 otherwise requires:

13 1. "*Board*" means the board of direct care
14 professionals created under chapter 147.

15 2. "*Community living professional*" means a direct
16 care associate who has completed advanced training and
17 is certified to provide home and community living,
18 instrumental activities of daily living, and personal
19 support services.

20 3. "*Core training*" means training specified by the
21 board to provide basic foundational knowledge and an
22 introduction to the direct care profession.

23 4. "*Direct care associate*" means any of the
24 following:

25 a. An individual who has completed core training
26 and is certified to provide direct care services in the
27 state.

28 b. An individual who has completed a nurse aide
29 training and competency evaluation program approved
30 by the state as required pursuant to 42 C.F.R. §
31 483.152, is registered on the Iowa direct care worker
32 registry established by the department of inspections
33 and appeals, complies with the requirements of section
34 152F.3, and is certified to provide direct care
35 services in the state.

36 5. "*Direct care instructor*" means an individual
37 approved by the board to provide direct care
38 instruction to direct care professionals.

39 6. "*Direct care professional*" means an individual
40 who provides direct care services for compensation and
41 is certified as a direct care associate, a community
42 living professional, a health support professional, or
43 a personal support professional.

44 7. "*Direct care services*" means the services
45 provided to individuals who have health conditions,
46 are ill, or are individuals with disabilities as
47 specified in the individual's service plan or in
48 documented goals, including but not limited to home and
49 community living services, instrumental activities of
50 daily living services, personal activities of daily

1 living services, personal support services, and health
2 monitoring and maintenance services.

3 8. "*Direct care trainer*" means a direct care
4 instructor who is approved by the board to train
5 instructors.

6 9. "*Health monitoring and maintenance services*"
7 means services provided to support and maintain
8 an individual's health, including observation and
9 reporting of behaviors or conditions; understanding
10 the causes and symptoms of conditions including but
11 not limited to muscular/skeletal, skin, respiratory
12 system, and neurologic conditions, and diabetes,
13 mental illness, pain, cancer, and intellectual and
14 developmental disabilities; and providing functional
15 support specific to certain conditions.

16 10. "*Health support professional*" means any of the
17 following:

18 a. A direct care associate who has completed
19 advanced training and is certified to provide personal
20 activities of daily living and health monitoring and
21 maintenance services.

22 b. An individual who has completed a nurse aide
23 training and competency evaluation program approved
24 by the state as required pursuant to 42 C.F.R. §
25 483.152, is registered on the Iowa direct care worker
26 registry established by the department of inspections
27 and appeals, complies with the requirements of section
28 152F.3, and is certified to provide personal activities
29 of daily living and health monitoring and maintenance
30 services.

31 11. "*Home and community living services*" means
32 services to enhance or maintain independence of
33 individuals including such activities as helping
34 individuals develop and meet personal goals, providing
35 direct physical and emotional support and assistance
36 for persons with disabilities, utilizing crisis
37 intervention and positive behavior supports, and using
38 and following individual service plans.

39 12. "*Instrumental activities of daily living*
40 *services*" means services provided to assist individuals
41 with daily living tasks to allow them to function
42 independently in a home or community setting, including
43 but not limited to assistance with managing money,
44 transportation, light housekeeping, and shopping and
45 cooking.

46 13. "*Personal activities of daily living services*"
47 means services to assist individuals in meeting basic
48 needs, including but not limited to bathing, back rubs,
49 and skin care; grooming activities; assistance with
50 dressing and undressing; assistance with eating and

1 feeding; assistance with toileting; and assistance with
2 mobility, including transfers, walking, and turning in
3 bed.

4 14. "*Personal support professional*" means a direct
5 care associate who has completed advanced training and
6 is certified to provide instrumental activities of
7 daily living, personal activities of daily living, and
8 personal support services.

9 15. "*Personal support services*" means support
10 services provided to an individual as the individual
11 performs personal activities of daily living including
12 but not limited to coaching and prompting, and teaching
13 skills and behaviors.

14 16. "*Service plan*" means a written,
15 consumer-centered, outcome-based plan of services.

16 17. "*Specialty endorsement*" means an advanced level
17 of certification based on requirements developed by
18 experts in a particular discipline or professional area
19 and approved by the board.

20 Sec. ____ . **NEW SECTION. 152F.2 Voluntary**
21 **certification — use of title.**

22 1. The board of direct care professionals shall
23 establish and publicize a program for voluntary
24 certification of direct care professionals who meet the
25 requirements for certification under this chapter.

26 2. An individual who is not certified pursuant to
27 this chapter shall not use words or titles which imply
28 or represent that the individual is certified as a
29 direct care professional under this chapter.

30 3. A direct care associate shall not represent
31 that the individual is certified as a direct care
32 professional with advanced training certification
33 or a specialty endorsement, unless the direct care
34 associate is first certified at the appropriate level
35 of certification under this chapter.

36 Sec. ____ . **NEW SECTION. 152F.3 Requirements to**
37 **obtain certification — renewal — continuing education**
38 **— reciprocity.**

39 1. An applicant for certification as a direct care
40 associate shall present evidence satisfactory to the
41 board that the applicant satisfies all of the following
42 requirements:

43 a. The applicant has successfully completed the
44 required education for the certification from a
45 board-approved direct care instructor or direct care
46 trainer; or the individual has completed a nurse aide
47 training and competency evaluation program approved by
48 the state as required pursuant to 42 C.F.R. § 483.152
49 and is registered on the Iowa direct care worker
50 registry established by the department of inspections

1 and appeals.

2 *b.* The applicant has paid all fees required by the
3 board.

4 *c.* The applicant certifies that the applicant will
5 conduct all professional activities in accordance with
6 standards for professional conduct established by the
7 board.

8 2. An applicant for certification as a direct care
9 professional with advanced training or a specialty
10 endorsement shall present evidence satisfactory to the
11 board that the applicant satisfies all of the following
12 requirements:

13 *a.* The applicant has successfully completed the
14 required education for the certification from a
15 board-approved direct care instructor or direct care
16 trainer.

17 *b.* The applicant has paid all fees required by the
18 board.

19 *c.* The applicant has passed a state examination
20 approved by the board.

21 *d.* The applicant certifies that the applicant will
22 conduct all professional activities in accordance with
23 standards for professional conduct established by the
24 board.

25 3. Notwithstanding subsection 2, an applicant for
26 certification as a health support professional shall
27 present evidence satisfactory to the board that the
28 applicant satisfies all of the following requirements:

29 *a.* The applicant has complied with one of the
30 following:

31 (1) Successful completion of the required education
32 for the certification from a board-approved direct
33 care instructor or direct care trainer and successful
34 passage of a state examination approved by the board.

35 (2) Successful completion of a nurse aide training
36 and competency evaluation program approved by the
37 state as required pursuant to 42 C.F.R. § 483.152 and
38 registration on the Iowa direct care worker registry
39 established by the department of inspections and
40 appeals.

41 *b.* The applicant has paid all fees required by the
42 board.

43 *c.* The applicant certifies that the applicant will
44 conduct all professional activities in accordance with
45 standards for professional conduct established by the
46 board.

47 4. An individual shall renew the individual's
48 certification biennially. Prior to such renewal, the
49 individual shall present evidence that the individual
50 has satisfied continuing education requirements and

1 shall pay a renewal fee as determined by the board.

2 5. The board shall issue the appropriate
3 certification to an applicant who demonstrates
4 experience in direct care services in another state and
5 satisfies the requirements established by the board for
6 the specific certification.

7 Sec. ____ . NEW SECTION. 152F.4 Duties of the board.

8 The board shall do all of the following:

9 1. Adopt rules consistent with this chapter,
10 chapter 147, chapter 272, and the recommendations of
11 the direct care worker advisory council established
12 pursuant to 2008 Iowa Acts, chapter 1188, section 69,
13 including the recommendations in the final report
14 submitted by the advisory council to the governor and
15 the general assembly in March 2012, which are necessary
16 for the performance of its duties.

17 2. Establish standards and guidelines for direct
18 care professionals, including establishing or
19 approving, as applicable, training and curriculum
20 requirements for direct care associates and each
21 advanced training credential and specialty endorsement.

22 a. The curriculum for core training shall provide
23 for its incorporation into and completion through
24 a flexible delivery system, utilizing a variety
25 of settings and methods, as approved by the board,
26 including but not limited to employer-provided
27 training, community college courses, and online
28 training including but not limited to the college of
29 direct support.

30 b. The curriculum requirements for health support
31 professionals shall satisfy the curriculum requirements
32 specified for nurse aides pursuant to 42 C.F.R. §
33 483.152.

34 c. The training and curriculum requirements
35 approved by the board shall provide for adaptations,
36 accommodations, modifications, and individualization
37 for applicants, based on their needs, abilities, and
38 personal learning styles.

39 3. Require an individual to undergo criminal
40 history and child and dependent adult abuse record
41 checks prior to certification, and establish record
42 checks requirements applicable to direct care
43 professionals consistent with section 135C.33.
44 The requirement shall provide for acceptance of
45 prior record checks completed by the individual's
46 current employer in lieu of new record checks, if
47 the individual has had no gap in employment since
48 completion of the checks.

49 4. Require compliance with child abuse and
50 dependent adult abuse reporting and training

1 requirements in accordance with section 232.69 and
2 chapters 235B and 235E, as applicable.

3 5. Establish standards and guidelines for
4 certification reciprocity.

5 6. Prepare and conduct, or prescribe, an
6 examination for applicants for certification.

7 7. Establish standards and guidelines for direct
8 care instructors and direct care trainers, including
9 minimum curriculum requirements and continuing
10 education requirements. Training and continuing
11 education guidelines shall provide diverse options for
12 completion of the training and continuing education,
13 as appropriate, including but not limited to online,
14 employer-based, or educational institution-based
15 opportunities.

16 8. Define educational activities which fulfill
17 continuing education requirements for renewal of
18 certification.

19 9. Establish guidelines for inactive certification
20 status and inactive certification reentry.

21 10. Adopt rules to provide for a fifty percent
22 reduction in the fee for direct care associate
23 certification for applicants for certification during
24 the period beginning January 1, 2015, and ending
25 December 31, 2016.

26 11. Adopt rules to provide for all of the following
27 during the period beginning January 1, 2015, and ending
28 December 31, 2016:

29 a. Initial voluntary certification of an individual
30 providing direct care services on or before January
31 1, 2015, as a direct care associate, community living
32 professional, personal support professional, or
33 health support professional, as appropriate, based
34 on an appraisal of documented previous training,
35 employment history, and experience, submitted with the
36 application, in lieu of completion of the education,
37 training, or examination requirements specified for the
38 specific certification pursuant to section 152F.3.

39 b. Initial voluntary certification of an individual
40 who was registered on or before January 1, 2015, and is
41 registered on the date of application for certification
42 on the Iowa direct care worker registry established by
43 the department of inspections and appeals, in lieu of
44 completion of the education, training, and examination
45 requirements specified for the specific certification
46 pursuant to section 152F.3, as a direct care associate
47 or a health support professional, as requested in the
48 application submitted by the individual.

49 12. In collaboration with the direct care worker
50 advisory council established pursuant to 2008

1 Iowa Acts, chapter 1188, section 69, do all of the
2 following:

3 a. Develop and conduct necessary outreach and
4 education for individuals providing direct care
5 services, consumers, training providers including but
6 not limited to community college health occupation
7 and training centers, employers, and other interested
8 parties to provide information about and the process
9 for participation in direct care professional voluntary
10 certification.

11 b. Determine data collection needs, collect data,
12 and track and analyze data to determine the effect of
13 certification on recruitment and retention, turnover
14 rates, the cost of turnover, consumer and employer
15 satisfaction, and public protection. The analysis of
16 data collected shall also be used to inform changes
17 in the certification system to provide for continuous
18 improvement for direct care professionals, consumers
19 and employers, and the public.

20 13. Provide for maintenance of the information
21 management system to be utilized for application for
22 and renewal of certification, comprehensive workforce
23 data collection and tracking, and a public interface.
24 The public interface shall include but is not limited
25 to searchable information regarding the credential
26 status of each certified direct care professional.

27 Sec. _____. NEW SECTION. 152F.5 Certification
28 suspension and revocation.

29 A certification issued by the board under this
30 chapter may be suspended or revoked, or renewal of
31 certification may be denied by the board, for violation
32 of any provision of this chapter, section 147.55 or
33 272C.10, or rules adopted by the board.

34 Sec. _____. NEW SECTION. 152F.6 Individuals
35 providing direct care services — disclosure.

36 Any individual providing direct care services in
37 this state shall disclose the individual's level of
38 certification under this chapter to a consumer prior to
39 the initial provision of direct care services to that
40 consumer.

41 Sec. _____. Section 10A.402, subsection 1, Code 2013,
42 is amended to read as follows:

43 1. Investigations relative to the practice of
44 regulated professions and occupations, except those
45 within the jurisdiction of the board of medicine, the
46 board of pharmacy, the dental board, and the board of
47 nursing, and the board of direct care professionals.

48 Sec. _____. Section 135.11A, Code 2013, is amended to
49 read as follows:

50 **135.11A Professional licensure division — other**

1 **licensing boards — expenses — fees.**

2 1. There shall be a professional licensure
3 division within the department of public health. Each
4 board under chapter 147 or under the administrative
5 authority of the department, except the board of
6 nursing, board of medicine, dental board, and board of
7 pharmacy, and board of direct care professionals shall
8 receive administrative and clerical support from the
9 division and may not employ its own support staff for
10 administrative and clerical duties.

11 2. The professional licensure division and the
12 licensing boards may expend funds in addition to
13 amounts budgeted, if those additional expenditures are
14 directly the result of actual examination and exceed
15 funds budgeted for examinations. Before the division
16 or a licensing board expends or encumbers an amount
17 in excess of the funds budgeted for examinations, the
18 director of the department of management shall approve
19 the expenditure or encumbrance. Before approval is
20 given, the department of management shall determine
21 that the examination expenses exceed the funds budgeted
22 by the general assembly to the division or board
23 and the division or board does not have other funds
24 from which examination expenses can be paid. Upon
25 approval of the department of management, the division
26 or licensing board may expend and encumber funds for
27 excess examination expenses. The amounts necessary to
28 fund the excess examination expenses shall be collected
29 as fees from additional examination applicants and
30 shall be treated as repayment receipts as defined in
31 section 8.2.

32 Sec. _____. Section 135.31, Code 2013, is amended to
33 read as follows:

34 **135.31 Location of boards — rulemaking.**

35 The offices for the board of medicine, the board
36 of pharmacy, the board of nursing, and the dental
37 board, and the board of direct care professionals shall
38 be located within the department of public health.
39 The individual boards shall have policymaking and
40 rulemaking authority.

41 Sec. _____. Section 147.1, subsections 3 and 6, Code
42 2013, are amended to read as follows:

43 3. "Licensed" or "certified", when applied
44 to a physician and surgeon, podiatric physician,
45 osteopathic physician and surgeon, physician assistant,
46 psychologist, chiropractor, nurse, dentist, dental
47 hygienist, dental assistant, optometrist, speech
48 pathologist, audiologist, pharmacist, physical
49 therapist, physical therapist assistant, occupational
50 therapist, occupational therapy assistant, orthotist,

1 prosthetist, pedorthist, respiratory care practitioner,
2 practitioner of cosmetology arts and sciences,
3 practitioner of barbering, funeral director, dietitian,
4 marital and family therapist, mental health counselor,
5 social worker, massage therapist, athletic trainer,
6 acupuncturist, nursing home administrator, hearing
7 aid dispenser, ~~or~~ sign language interpreter or
8 transliterator, or direct care professional means a
9 person licensed under this subtitle.

10 6. "Profession" means medicine and surgery,
11 podiatry, osteopathic medicine and surgery, practice
12 as a physician assistant, psychology, chiropractic,
13 nursing, dentistry, dental hygiene, dental assisting,
14 optometry, speech pathology, audiology, pharmacy,
15 physical therapy, physical therapist assisting,
16 occupational therapy, occupational therapy assisting,
17 respiratory care, cosmetology arts and sciences,
18 barbering, mortuary science, marital and family
19 therapy, mental health counseling, social work,
20 dietetics, massage therapy, athletic training,
21 acupuncture, nursing home administration, hearing
22 aid dispensing, sign language interpreting or
23 transliterating, orthotics, prosthetics, ~~or~~ pedorthics,
24 or practice as a direct care professional.

25 Sec. _____. Section 147.2, subsection 1, Code 2013,
26 is amended to read as follows:

27 1. A person shall not engage in the practice of
28 medicine and surgery, podiatry, osteopathic medicine
29 and surgery, psychology, chiropractic, physical
30 therapy, physical therapist assisting, nursing,
31 dentistry, dental hygiene, dental assisting, optometry,
32 speech pathology, audiology, occupational therapy,
33 occupational therapy assisting, orthotics, prosthetics,
34 pedorthics, respiratory care, pharmacy, cosmetology
35 arts and sciences, barbering, social work, dietetics,
36 marital and family therapy or mental health counseling,
37 massage therapy, mortuary science, athletic training,
38 acupuncture, nursing home administration, hearing
39 aid dispensing, or sign language interpreting or
40 transliterating, ~~or~~ shall not practice as a physician
41 assistant or as a certified direct care professional,
42 unless the person has obtained a license for that
43 purpose from the board for the profession.

44 Sec. _____. Section 147.13, Code 2013, is amended by
45 adding the following new subsection:

46 NEW SUBSECTION. 25. For direct care professionals,
47 the board of direct care professionals.

48 Sec. _____. Section 147.14, subsection 1, Code 2013,
49 is amended by adding the following new paragraph:

50 NEW PARAGRAPH. x. For the board of direct care

1 professionals, a total of nine members, five of whom
2 are direct care professionals who represent diverse
3 settings and populations served, two members of the
4 public who are consumers or family members of consumers
5 of direct care services, one registered nurse who
6 serves as a direct care instructor, and one human
7 services professional who serves as a direct care
8 instructor.

9 Sec. _____. Section 147.74, Code 2013, is amended by
10 adding the following new subsection:

11 NEW SUBSECTION. 23A. A direct care professional
12 certified under chapter 152F and this chapter may use
13 the following:

14 a. A direct care professional certified as a
15 direct care associate may use the title "direct care
16 associate" or the letters "D.C.A." after the person's
17 name.

18 b. A direct care professional certified as a
19 community living professional may use the title
20 "community living professional" or the letters "C.L.P."
21 after the person's name.

22 c. A direct care professional certified as a
23 personal support professional may use the title
24 "personal support professional" or the letters "P.S.P."
25 after the person's name.

26 d. A direct care professional certified as a
27 health support professional may use the title "health
28 support professional" or the letters "H.S.P." after the
29 person's name.

30 e. A direct care professional certified with a
31 specialty endorsement may use the title or letters
32 determined by the specialty endorsement entity and
33 approved by the board of direct care professionals.

34 f. A direct care professional who completes a
35 nurse aide training and competency evaluation program
36 approved by the state as required pursuant to 42
37 C.F.R. § 483.152 may use the title "certified nursing
38 assistant" or the letters "C.N.A." after the person's
39 name.

40 Sec. _____. Section 147.80, subsection 3, Code 2013,
41 is amended to read as follows:

42 3. The board of medicine, the board of pharmacy,
43 the dental board, ~~and~~ the board of nursing, ~~and~~
44 the board of direct care professionals shall retain
45 individual executive officers, but shall make
46 every effort to share administrative, clerical, and
47 investigative staff to the greatest extent possible.

48 Sec. _____. Section 147.88, Code 2013, is amended to
49 read as follows:

50 **147.88 Inspections and investigations.**

1 The department of inspections and appeals may
2 perform inspections and investigations as required by
3 this subtitle, except inspections and investigations
4 for the board of medicine, board of pharmacy, board of
5 nursing, and the dental board, and the board of direct
6 care professionals. The department of inspections
7 and appeals shall employ personnel related to the
8 inspection and investigative functions.

9 Sec. _____. Section 272C.1, subsection 6, Code 2013,
10 is amended by adding the following new paragraph:

11 NEW PARAGRAPH. *ag.* The board of direct care
12 professionals, created pursuant to chapter 147.

13 Sec. _____. DEPARTMENT OF INSPECTIONS AND APPEALS —
14 NURSE AIDE CURRICULUM. The department of inspections
15 and appeals shall collaborate with the direct care
16 workforce initiative workgroup to ensure that the
17 training curriculum requirements developed for a
18 health support professional credential satisfy the
19 requirements for a nurse aide pursuant to 42 C.F.R.
20 § 483.152. If the training curriculum requirements
21 developed satisfy this standard, beginning January 1,
22 2015, the department of inspections and appeals shall
23 approve the health support professional training as the
24 approved training curriculum for nurse aides pursuant
25 to 42 C.F.R. § 483.152.

26 Sec. _____. TRANSITION PROVISIONS. Notwithstanding
27 sections 147.14 and 147.16, for the initial board
28 of direct care professionals, the governor may
29 appoint, subject to confirmation by the senate, in
30 lieu of the five members required to be direct care
31 professionals and the two members required to be
32 direct care instructors, members with employment
33 experience providing direct care services in diverse
34 settings or expertise that is substantially equivalent
35 to the professional requirements for a direct care
36 professional or direct care instructor, as applicable.

37 Sec. _____. IMPLEMENTATION. The provisions of this
38 division of this Act shall be implemented as follows:

39 1. The sections of this division of this Act
40 relating to the board of direct care professionals
41 including sections 152F.1 and 152F.4, as enacted in
42 this division of this Act; sections 10A.402, 135.11A,
43 135.31, 147.13, 147.14, 147.80, 147.88, and 272C.1, as
44 amended in this division of this Act; and the section
45 of this division of this Act providing transition
46 provisions relating to the board of direct care
47 professionals shall be implemented so that a board of
48 direct care professionals is appointed no later than
49 December 15, 2013.

50 2. The sections of this division of this Act

1 relating to certification of direct care professionals
2 including sections 152F.2, 152F.3, and 152F.5, as
3 enacted in this division of this Act; and sections
4 147.1, 147.2, and 147.74, as amended in this division
5 of this Act, shall be implemented so that certification
6 is available beginning no later than January 1, 2015.

7 Sec. _____. FUNDING PROVISIONS.

8 1. The department of public health shall limit the
9 indirect service charge for the board of direct care
10 professionals to not more than fifteen percent.

11 2. It is the intent of the general assembly
12 that the board of direct care professionals be
13 self-sustaining by January 1, 2018.

14 Sec. _____. MEDICAL ASSISTANCE — PREFERENTIAL
15 RATE FOR CERTIFIED DIRECT CARE PROFESSIONALS. The
16 department of human services shall review and
17 make recommendations for providing a preferential
18 reimbursement rate under the medical assistance program
19 for services provided by direct care professionals
20 based upon the individual's level of certification
21 under chapter 152F, as enacted in this division of
22 this Act. The department shall report findings and
23 recommendations to the chairpersons and ranking members
24 of the joint appropriations subcommittee on health and
25 human services by December 15, 2013.

26 Sec. _____. EFFECTIVE UPON ENACTMENT. This division
27 of this Act, being deemed of immediate importance,
28 takes effect upon enactment.>

29 3. Title page, line 1, after <to> by inserting
30 <direct care services, including>

31 4. Title page, line 3, after <programs>
32 by inserting <, certification of direct care
33 professionals, making penalties applicable, and
34 including effective date provisions>

35 5. By renumbering as necessary.

JACK HATCH